

IN THE SENATE OF THE UNITED STATES.

MARCH 6, 1860.—Ordered to be printed.

Mr. BAYARD submitted the following

REPORT.

*The Committee on the Judiciary, to whom was referred a resolution of the Senate, directing them to inquire, and report whether the contracts heretofore made by the Secretary of the Senate with Mrs. Adeline Sergeant, and renewed, with modifications, on the 16 and 17th of February, 1860, for binding the reserved numbers of Senate documents, are authorized by law, have had the same under consideration, and report:*

That by a joint order of the Senate and House of Representatives, made at the first session of the first Congress, all contracts for the printing and binding business, on the most reasonable terms, were intrusted to the Secretary of the Senate and the Clerk of the House. That the same joint order directed the acts of Congress and Journals of each House to be “distributed to the members of the legislative, to the executive, and judicial, and heads of departments of the government of the United States, and the executive, legislative, and judicial of the several States.”

Frequent acts of Congress have been since passed in relation to the printing of copies of all documents ordered by either House, but no act in relation to the binding of what are recognized as the usual number, or reserved copies, has ever been passed.

Subsequently to the making of this joint order, the Senate has ordered the printing of such documents as it deemed necessary for its use, and the usual number has been prescribed by general orders; and where additional copies were deemed necessary, a special order authorizing the printing, and designating them as additional copies, has always been requisite. Of this usual number, at the close of each session a certain number has, by a usage which runs beyond the memory of man, arising probably under the joint order of the first Congress, been reserved; and copies of *all* documents so reserved, have been bound, and furnished by the Secretary to the different committee rooms, the Secretary's office, and one copy to each Senator of such documents as were ordered to be printed by the Senate during his term of office.

The printing, until the act of August 26, 1852, as well as the binding, has always been paid out of the contingent fund of the Senate, and in the absence of any act of Congress, or order of the Senate to

the contrary, the Committee to Audit and Control the Contingent Expenses of the Senate, have authorized the binding of such number of reserved copies as were deemed requisite by it. These reserved copies, until the year 1849, were bound by the printers of the Senate for the time being, at the usual and customary prices under the superintendence of the Secretary of the Senate, by authority of the committee.

In the beginning of 1849, the Secretary, by the direction of the committee, after advertising for proposals for the binding of reserved numbers, on the 30th of May, 1849, made a contract with John Sergeant, for binding the reserved numbers for the 31st Congress. After the death of John Sergeant, a contract for binding the reserved numbers was, by the authority of the committee, made by the Secretary, with Adeline Sergeant, his widow, and on the 16th February last, the contract was continued with modifications, for binding the reserved copies, by the authority and with the approval of the committee.

The authority, therefore, of the Secretary to make the contracts specified in the resolution, necessarily depends upon the joint order of 1789, the usage under it, and the authority of the Committee on Contingent Expenses. A Committee to Audit and Control the Contingent Expenses of the Senate, was established by a rule of the Senate, adopted November 4, 1807.

It seems to admit of no doubt, that the Senate has full authority to have printed and bound such documents as may be by it deemed necessary and proper, in the absence of any restrictive law, and that such binding and printing forms part of its contingent expenses.

The authority given to the committee by the rule of 1807, is to control, as well as audit the contingent expenses of the Senate; and under that authority, the binding of reserved copies has been always done under the superintendence of the Secretary, by the directions of the committee: additional copies or extra numbers, stand upon a different footing. By a clause in the civil and diplomatic act, passed March 3, 1853, "additional copies," and additional copies alone, are directed to be bound under the direction of the respective committees on printing of each house, and at a price limited in the act. Previous to January, 1852, additional copies ordered by the Senate, had also been bound under the authority of the Committee on Contingent Expenses, though in a different and less perfect manner than the reserved copies. Congress must be presumed to have known the mode in which its binding was done previous to the passage of the joint resolution of January 27, 1852, which was applicable to the 32d Congress alone, and the law being made permanent in March, 1853, by a clause in the general appropriation bill, the inference seems reasonable that it was the intention of the legislature to sanction and continue the mode in which reserved documents had been previously bound. The authority of the Committee on Contingent Expenses, to authorize and direct the binding of reserved documents, if it ever could have been questioned before, existing as it did under a usage of nearly half a century, is implied in the regulation for binding "additional copies" made in 1853.

The implication becomes irresistible when regard is had to the provisions of the third section of the act passed March 3, 1859, making

appropriation for the legislative, executive, and judicial expenses of the government.—(Stat. at Large, vol. 2, page 422.)

By the provisions of that section, the reserved copies are limited to 1,550, and it is further provided that “the reserved (regular) numbers shall be distributed by the officers of the house first ordering the printing of the same, to the same persons, and in the same manner, as such numbers heretofore ordered by both houses have been distributed.”

Reserved numbers had always been distributed before the passage of that act, by the Secretary of the Senate, as previously stated, and in *bound* copies.

The committee, therefore, cannot doubt that the Secretary of the Senate had full authority, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to make the contracts with Mrs. Adeline Sergeant mentioned in the resolution of inquiry referred to them, the same having been made by him under the direction and with the approval of that committee.

